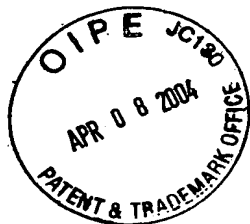


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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/737844

Attorney Docket: DP-302060

Filing Date: 12/15/2000

Group Art Unit: 1764

Applicant: Paul E. Jankowski et al.

Examiner: Tran, Hien Thi

Title: VARIABLE FLOW REGULATOR
FOR USE WITH CATALYTIC CONVERTER

MS Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PROVISIONAL ELECTION

Sir:

This is in response to the Office Action mailed March 10, 2004, imposing a Restriction Requirement between:

Group I, claims 1-8, directed to a catalytic converter; and

Group II, claims 9-11, directed to a method for manufacturing a catalytic converter, and

Group III, claims 12-25, directed to a method for achieving light-off in a catalytic converter; and

Group IV, claims 26-41, directed to a variable flow regulator assembly.

The language of the Office Action is unclear. Paragraph 2 of the Office Action states, "Since the product of group I is not allowable, restriction is proper between said method of

making and method of using. The product claims of group I will be examined along with the elected invention.”

First, Applicants contend that the claims to the device in Group I are allowable, and objects to any inference that they are not. Insofar as Applicants are aware, the Patent Office has not examined the claims in Group I and has not made any determination regarding the claims.

Second, since distinction is made between Groups II and III, and in view of the above statement that the product claim will be examined with the elected invention, it is not clear whether the Restriction Requirement seeks election of a single Group, or one of Groups II or III to be examined with Group I.

If the Restriction Requirement seeks election of one Group, Applicants provisionally elect to prosecute the claims of Group I, claims 1-8.

If the Restriction Requirement seeks election of a group to be examined with Group I, Applicants provisionally elect Group III, claims 12-25.

Nevertheless, Applicants respectfully traverse the requirement.

The Group I claims, based upon claim 1, call for a catalytic converter comprising a variable flow regulator formed of a first exhaust pipe, a second exhaust pipe and a movable exhaust pipe. Group II, i.e., claim 9, is directed to a method of making the catalytic converter with the variable flow regulator formed of the same elements. Group III, based upon claim 12, is to a method of using the catalytic converter that is distinguished by the variable flow regulator as in claim 1, Group I. Group IV is to the variable flow regulator that is the key distinctive feature in claim 1. Even a causal read of these claims reveals that they are merely different aspects of but a single invention. Moreover, prior art showing a variable flow regulator in a catalytic


converter is material to all Groups, and should properly be considered in examining all Groups, regardless of where such art is found within the classification scheme of the Patent Office.

Efficiency, both on the part of Applicants, and also on the part of the Patent Office, mandates that, where the distinctive features are the same, all claims should be examined together. Thus, claims to the catalytic converter having the variable flow regulator, its manufacture and its use, should properly be examined in the present application. Moreover, the Restriction Requirement unduly burdens Applicants by requiring them to file and prosecute multiple applications, and pay fees and maintain multiple patents, to obtain the patent protection to which they are entitled.

Therefore, it is respectfully requested that the Restriction Requirement be withdrawn, and that all claims of Groups I, II, III, and IV be considered in the present application.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0831.

Respectfully submitted,



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